

EXHIBIT X

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Client: [REDACTED]
Diagnosis: **Disruptive Mood Dysregulation Disorder**
Attention-Deficit/Hyperactivity Disorder
Specific Learning Disorder Impairment in written expression
Report Date: **April 13, 2024**

WAGE EARNING POTENTIAL REPORT

INTRODUCTION:

[REDACTED] was referred on 04/03/2024 for completion of a wage-earning analysis including a transferable skills analysis and labor market research to assess his potential future employability. [REDACTED] was not seen for an in-person interview. This wage-earning analysis is based upon a records review of information provided by Ms. Lindsay P. Hazen representing the Sturgis Public Schools in litigation filed against the school district on behalf of [REDACTED]. The suit alleges that as a learning-disabled student he has not received appropriate support services required under the Americans with Disabilities Act. In addition, it alleges he has been negatively impacted by racial discrimination experienced in school. The scope of this report is limited strictly to an assessment of [REDACTED] potential employability and wage-earning potential. It will not attempt to address [REDACTED] legal rights or the underlying legal issues which serve as the basis for his litigation. For document review and report writing, I am charging an hourly rate of \$90 dollars per hour. For deposition and trial testimony, I am charging an hourly rate of \$150 dollars per hour.

[REDACTED] is currently a 16-year-old tenth grader at Sturgis High School in Sturgis, Michigan. He is attending classes on a hybrid schedule of online and in-person classes. In light of documented learning deficits, [REDACTED] has undergone Individual Educational Program evaluation and reporting dating back to at least the seventh grade when he was a student at Sturgis Middle School. He has expressed an interest in mechanical, industrial, and technical activities that may one day lead to training and employment in a related field. His mother has expressed concern that [REDACTED] learning deficiencies may limit his training and employment potential thus limiting future earnings. However, it has also been well documented that [REDACTED] hyperactivity and inappropriate behavioral response to social interaction has also presented a significant barrier to educational achievement and social adjustment in the classroom setting.

In the preparation of this report, I reviewed the following documents:

1. United States District Court, Western District of Michigan, Southern Division, Case No. 1:23-cv-448, [REDACTED] on behalf of [REDACTED] Plaintiff v. Sturgis Public Schools, Defendant
2. Individualized Education Program Treatment Reports, 4/14/21, 1/20/22, 9/12/22, 11/11/22, 3/6/23, 7/17/23, 10/23/23
3. Multidisciplinary Evaluation Team Report, Matt Bonyng, Ed. S., Educational Specialist, 3/11/20

Mr. Bonyng administered the Wechsler Intelligence for Children, Fifth Edition (WISC-V) to [REDACTED] as a sixth grader. The full-scale IQ score reported by Mr. Bonyng was 99 or at the 47th percentile, an average score. His verbal comprehension score was 98 or at the 48th percentile, an average score. Mr. Bonyng noted that the “verbal comprehension index measured [REDACTED] ability to access and apply acquired word knowledge. This score reflects his ability to verbalize meaningful concepts, process verbal information, and express himself using words.” The only index where [REDACTED] scored very low was processing speed where he scored a 75 or at the 5th percentile. Mr. Bonyng noted that, “Performance on the PSI is related to visual scanning, visual discrimination, short-term visual memory visuomotor coordination and concentration.” Otherwise, [REDACTED] scored at the high average levels on the visual spatial and fluid reasoning indices and average level on the working memory index.

4. Enderle-Severson Transition Rating Scale- Form J-Revised, 1/13/22
5. Functional Behavior Assessment, Nathan VanderWeele, M.A., B.C.B.A., L.B.A.
6. Annual year-end grade reports Grade 5 through Grade 8, First Semester Grade 9 grade report
7. Comprehensive Psychological Evaluation Report, 9/21/22, Cimone Safilian, M.A., Ph.D., T.L.L.P., Temporary Limited License Psychologist

Dr. Safilian administered the Wechsler Individual Achievement Test-III to [REDACTED] at age 14 years 04 months at the start of his ninth-grade school year at Sturgis High School. His Oral Language skills reflected standard scores ranging from the 45th percentile for Sentence Repetition to the 79th percentile for Listening Comprehension. All the Oral Language scores fell into the average range with the exception of Listening Comprehension which is at the high average level when compared with the scores of other children at the same age.

[REDACTED] scores on the Total Reading section ranged at the average level on five sub-tests. His Reading Comprehension was highest at the 47th percentile. His Basic Reading score at the 18th percentile, was still in the average range. Two low average scores were achieved in Word Reading at the 19th percentile and Pseudoword Decoding at the 18th percentile.

On the Written Expression portion of the test, Dr. Safilian reported a Sentence

Comprehension at the 2nd percentile, a very low score; a Sentence Combining score at the 8th percentile, a below average score; a Sentence Building score at the 0.5 percentile, a low score. However, on the Essay Composition test he scored at the 58th percentile, an average score; on the Word Count sub-test he scored at the 30th percentile, an average score; and on Theme Development/Text Organization, he scored at the 79th percentile, an average score. The Sentence Building sub-test requires the test taker to “write complete sentences that included a predetermined word,” per Dr. Safilian’s explanation.

On the Mathematics/Math Fluency portion of the test, ██████ scored at the 27th percentile on Mathematics, an average score; at the 39th percentile on Math Problem Solving, an average score; and at the 21st percentile on Numerical Operations, a low average score.

Dr. Safilian administered the Brown Executive Function/Attention Scales- Self/Parent test. The test seeks “to examine a wide range of symptoms/behaviors associated with ADHD. It was interesting that ██████ reported having a *possible significant problem* in one area, his Memory, while his mother reported scores on the test indicating a *very significant problem* on all seven categories including Activation, Focus, Effort, Emotion, Memory, Action, and Total Composite.

Dr. Safilian also administered the WISC-V to ██████. Approximately two and one-half years after undergoing the same test administered by Mr. Bonyng, ██████ achieved sub-test scores similar to those obtained on the initial administration of the test in March, 2020 that placed him in the average range for most areas of intellectual functioning. However, there was one notable exception- his Processing Speed Index was even lower. In 2020, ██████ obtained a very low score at the 5th percentile. Per Dr. Safilian’s test, his PSI score was at the 1st percentile, an extremely low score. As in any distribution of scores on a Bell curve, the distance from the median (50th percentile) to a score gets exponentially further as it approaches the outer limits of the distribution.

Dr. Safilian reported that, “Overall, the results of the WIAT-III indicate that ██████ academic achievement is in the average range. His scores further indicate that he needs additional time to complete his work and *struggles with written expression*” (my emphasis). She continued, “██████ cognitive abilities are average when compared to his same age peers. His visual spatial abilities are above average. This indicates that he exhibits a strength when evaluating visual details and understanding visual spatial relationships. Dr. Safilian later added that, “His processing speed was extremely low (PR=1). This indicates that he needs significantly more time to take in, make sense of, and respond to information.”

Dr. Safilian concluded that, “██████ presentation of psychological difficulties and maladaptive behavior patterns may be influencing his academic performance as well. His oppositional and unruly behavior at school has negatively influenced his academic performance.” She added, “██████ has many symptoms consistent with ADHD that may significantly impact his ability to perform in the classroom.”

Dr. Safilian reported the following diagnostic impressions. “In order of clinical salience: Disruptive Mood Dysregulation Disorder F34.81; Attention-Deficit/Hyperactivity Disorder, Combined Presentation F90.2; Specific Learning Disorder, with impairment in written expression, Moderate F81.81”

Dr. Safilian ended the assessment portion of her report by saying that, “██████ presents with a complex set of symptoms. Due to this and his stage of development, his diagnostic picture is likely to change over the coming years.”

3/7/24

9. Vocational Access Evaluation, 3/11/24, Amelia “Amy” Shelton, M.A., C.R.C., L.C.P., Master of Arts, Certified Rehabilitation Counselor, Licensed Professional Counselor

Ms. Shelton reported that [REDACTED] was seen along with his mother to complete the interview assessment. Ms. Shelton reported that, “In seventh grade [REDACTED] classes were all virtual due to Covid-19 pandemic. He and his mother report that during this time his grades improved, and he was receiving mostly A’s and B’s in his classes. However, his Grade 7, 2020-2021 final report card showed something very different. It was reported that that he only received Credit for each class that year and provided no indication of A or B final grades. In addition, it reported 77 absences for 6th Math online, 53 absences for 6th Language Arts online, 76 absences for 6th Social Studies online, and 53 absences for 6th Science online. As such, it is difficult to imagine any student, much less a student with [REDACTED] learning disabilities, achieving A or B grades when missing approximately 20-40% of his classes.

Ms. Shelton also reported that, “[REDACTED] indicated he has not received any assistance from Michigan Rehabilitation Services, however, he and his mother indicated school personnel have brought up MRS referral in the past.” Although school districts often coordinate referrals to MRS for disabled students, there is no reason why [REDACTED] mother could not have applied for services directly with MRS on behalf of her son. It was later reported by Ms. Shelton that, “[REDACTED] has received mental health treatment with Pines and Community Mental Health in the past. He is not currently in any mental health treatment. [REDACTED] reports that he did not find therapy helpful in the past.” It is my understanding that in order for a person with a psychological disability to be eligible for Michigan Rehabilitation Services, one of the eligibility requirements is participation in psychological counseling. It raises the question: Is [REDACTED] non-participation in mental health treatment the reason the school district cannot proceed in arranging vocational rehabilitation services from MRS?

Ms. Shelton reported that, “[REDACTED] has had paid work experience. He has worked the summer months at an Amish Farmers Market. He assisted with stocking, sales, and money handling. He has also worked mowing lawns. He reports liking to work. He and his mother deny any workplace behavioral issues such as those identified in school records.”

Ms. Shelton stated that, “Records reviewed document limited activities provided to [REDACTED]. There is mention of occupational goals of Machine Tech Operator, Construction Work, and Heavy Equipment work with tested interest in Engineering, Manufacturing, and Industrial Technology fields. Yet these results are very broad and likely not providing enough occupational focus for [REDACTED] and his parents.” While I trust the accuracy of Ms. Shelton’s reporting in regard to [REDACTED] vocational interests, we just don’t know from her report what specific records she is making reference to i.e. nature of the record, date, grade, etc.

Ms. Shelton reported the following vocational strengths: “prior successful work experiences; valid driver’s license; and expressed desire to work while in high school and post high school.” I would agree that these are all vocational assets that render him employable and have laid a foundation for future employment success. [REDACTED] has demonstrated that he has been able to handle the responsibilities of several semi-skilled jobs during the summer while still in high school. He has performed his work without any known significant disruption of

his work activities due to his symptoms from ADHD, mood swings or behavioral outbursts. The best predictor of future success on the job is past success on the job.

Ms. Shelton reported that, “According to the Bureau of Labor Statistics, Disability Characteristics data released in February, 2023, the disability employment rate in the United States is currently 23.9% compared to 67.8% for persons without disability. The current unemployment rate for persons with disabilities is 7.3% vs 3.7% for persons without disabilities. This data illustrates the difficulties people with disabilities face in securing employment.” I am not disputing the accuracy of Ms. Shelton’s report of these statistics. However, just because aggregate figures for a population may be true for the population as a whole, it does not necessarily mean that they apply to every member of that population. It appears that Ms. Shelton is attempting to establish a prima facie argument that because the unemployment rate for all disabled people is higher than for people without disabilities, [REDACTED] has a much lower probability of obtaining and holding a job. The problem is that he has already proven this argument wrong by successfully holding down two different summer jobs in two distinctly different types of work.

RESOURCES:

A transferable skills analysis was completed to identify potential jobs that [REDACTED] could perform based upon his limited work history from part time employment. He has worked a sufficient amount of time to establish transferable skills for a number of semi-skilled jobs. OASYS software developed by SkillTRAN, LLC was used to identify his transferable skills. Following is a list of sample occupations from the complete list of jobs [REDACTED] has the work experience to perform. [REDACTED] has directly transferable skills for 20 jobs, good transferable skills for 20 jobs, and an additional 274 jobs for which he has a fair level of transferable skills.

<u>OCCUPATION</u>	<u>DOT CODE</u>	<u>LEVEL</u>	<u>PHYSICAL DEMAND LEVEL</u>
Merchandise deliverer	299.477-010	Direct	Medium Duty
Sales Route Driver	292.353-010	Direct	Medium Duty
Sales Clerk	290.477-014	Direct	Light Duty
Stock Clerk	299.367-014	Direct	Heavy Duty
Gate Guard	372.667-030	Good	Light Duty
Security Guard	372.667-034	Fair	Light Duty
Vending Machine Attendant	319.464-014	Fair	Light Duty

CURRENT POTENTIAL WAGE-EARNING CAPACITY:

Wage statistics are based on lower Michigan nonmetropolitan areas in light of [REDACTED] place of residence in Bronson, Michigan. Wage data was culled from the U.S. Bureau of Labor Statistics.

For merchandise deliverers, the 10th percentile annual wage is \$21,510; the 50th percentile is \$29,540; the 90th percentile is \$38,620.

For stock workers, the 10th percentile annual wage is \$25,340; the 50th percentile is \$30,490; the 90th percentile is \$42,520.

For gate guards, the 10th percentile annual wage is \$24,450; the 50th percentile is \$31,270; the 90th percentile is \$42,890.

The wage levels listed above are based on Estimated May, 2022 Employment (the latest available) for each occupational category. As such, the current average pay levels for these positions may actually be higher based upon continuing inflation experienced by the Michigan economy over the past two years. These are occupations that [REDACTED] has demonstrated transferable skills based upon his previous work history.

Although they may require other legal or entry level criteria to qualify for employment, they do not require any further academic skills other than those that [REDACTED] has already acquired. This is not to say that [REDACTED] could currently obtain employment in these job categories, but would certainly qualify for consideration upon reaching the age of 18 and meeting the other entry level employment criteria of the employer.

FUTURE POTENTIAL WAGE-EARNING CAPACITY:

It was noted in several documents that [REDACTED] has expressed vocational interest in ultimately pursuing employment in mechanical, technical and engineering-related fields. Dr. Safilian reported that [REDACTED] reading comprehension and basic reading scores were at average levels. In addition, his mathematics/math fluency and math problem solving scores fell within the average range. The one area of relative weakness was in written expression where Dr. Safilian said, "...he struggles with written expression." This skill is assessed by giving an individual a predetermined word and asking them to compose a sentence using that word. She also noted that Wytama has above average visual spatial skills that enable him to evaluate visual details and visual spatial relationships.

Given [REDACTED] interest in pursuing mechanically-related occupations, to date he appears to have acquired the baseline academic skills essential for vocational training and employment in his reported areas of interest. Prospective employment as an automotive mechanic, welder, or heavy equipment operator does not require the ability to write complete sentences much less narrative reports as an essential part of the job. Given [REDACTED] skill set, he would appear ready to pursue training and employment in one of his areas of interest at the appropriate time as an adult. The only apparent serious barrier to employment is [REDACTED] himself. As suggested by Dr. Safilian, behavioral management therapy could prove beneficial for [REDACTED] in helping him develop better self-awareness, impulse control and social adjustment. However, as earlier alluded to, [REDACTED] behavior has not presented a barrier to job success in limited employment experiences to date.

As [REDACTED] has expressed interest in the field of automobile repair, the U.S. Bureau of Labor Statistics tells us the 50th percentile wage for an auto mechanic is \$44,080 as of 2022.

The median (50th percentile) wage for an arc welder was \$40,160 in 2022, per the U.S. B.L.S.

While it is impossible to predict long-term vocational success for any high school student at the age of 16, [REDACTED] appears to have the essential academic skills, prior work experience, and long-term vocational interests to establish a solid foundation for future career adjustment and success.

If you have any questions regarding the contents of this report, please do not hesitate to contact me.

Respectfully submitted,



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